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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,848	12/05/2003	Mark E. Herrmann	R0586-701210	8315

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CAMBRIDGE, MA 02142

EXAMINER

HARPER, TRAMAR YONG

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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12/29/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/729,848	Applicant(s) HERRMANN ET AL.	
	Examiner TRAMAR HARPER	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/27/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Examiner acknowledges receipt of amendments/arguments filed 11/10/09. The arguments set forth are addressed herein below. Claims 1-32 remain pending, Claims 1, 10, & 19 have been currently amended, and Claims 30-32 are newly added.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 10, & 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, there is no disclosure for the embodiment wherein a single player has a **subscription** for at least two games wherein the at least one game is played via the primary method of entry and the other game is played via the secondary free method of entry. Appropriate correction is required.

Claim 32 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, there is no disclosure for the act of

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providing in compliance with gaming requirements associated with entry of the at least one player, including an act of requiring, **by a computer system, that the alternative method of entry be the only method of entry in locations that the primary method of entry is not permitted.** Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 31 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to what “adjusted payments to the at least one player” the applicant is referring too. The Examiner asserts that the applicant intends to mean “adjusting the payout” with respect to claim 2. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-24, & 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Koza (US 6,767,284) in further view of Fioretti (US 5,351,970).

Claims 1-2, 4-6, 10-16, 19-20, & 22-24: Fisk discloses a bingo gaming system that comprises providing entry into at least one or more bingo game sessions. The system includes a variety of terminal, gaming computers including computer readable memory,

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etc. for implementing multiple bingo games. A player can purchase entry to a bingo game at various gaming terminals or retail locations. Fisk discloses that entry to a bingo game can be done in a variety of ways such as through the Internet, telephone, or ATM interfaces all linked within a bingo network. Also, preprinted cards can be received through the newspaper inserts, lottery instant tickets, etc. All entries are validated and associated with respective player accounts. Furthermore, players cannot participate in games that are currently active, but can pay for entry into games that are inactive (Pg. 25:20-Pg. 30:5). Fisk discloses that players can establish a prepaid account through a credit card or debit card for future charges or entries into bingo games (Primary methods of entry). The player or players can receive periodic bills for charges accrued during the previous period (Pg. 12:25-Pg. 13:5- e.g. implies **subscription** and automated renewal into bingo games). Fisk discloses that prepaid bingo tickets can be repeatedly used for subsequent/consecutive bingo games, wherein players purchase a prepaid bingo card for use for a limited number of games before the prepaid amount is consumed. Once the prepaid amount is used anymore plays on the card must be purchased again e.g. the card must be renewed (Pg. 30:5-12). Fisk discloses that in the event that a player has a winning bingo card the pattern cell content of the card is compared to the drawn winning cell content/numbers stored in memory and if there is a match the player is awarded a payout. Payouts vary from jackpot awards to "leaster" awards, therefore based on the type of win the gaming system determines the appropriate payout. The numbers are randomly drawn from a game computer and compared via matching computers (Pg. 27:16-24, Pg. 32:17-Pg. 33:33, Pg. 36:1-5, Pg.

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3:3-24). Fisk discloses that some of the rules for the game may comprise achieving different combinations of winning patterns on a bingo card (Pg. 37:16-25). Fisk discloses an alternative method of entry (**AMOE**) into a bingo game that comprises the use of preprinted bingo cards in newspaper supplements or on the reverse side of instant game tickets. These preprinted bingo cards help enhance visibility of the game and promote sales of the game. Such methods may be readily used to advertise and encourage participation in the bingo games when it is initially introduced. The instant win tickets provide the holder a **free** entry into the bingo game using the bingo game card printed on the reverse side of the instant win ticket (Page 11:10-15, Page. 13, lines 30-Page. 14, lines 1-12). The above clearly discloses at least as much that one player may purchase entry into a bingo session and another may use **an alternative method for a free entry into the bingo game session.**

Fisk lacks explicitly suggesting the an act of providing the AMOE method of entry for free. However, Applicant fails to disclose that having the act of providing the alternative method of entry for free solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the AMOE of Fisk, or applicant's invention, would perform the same function of providing a free entry into a bingo game regardless of how the free entry is obtained. Therefore, it would have been prima facie obvious to modify Fisk to obtain the invention as specified in claims 1, 10, & 19 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk.

In addition to the above, Fisk is clearly drawn to giving a player a free entry into the bingo game session (see ID). Fisk attempts to promote and advertise the bingo game by providing a bingo game card insert in newspapers or on the reverse side of instant win tickets. Fisk does not explicitly disclose whether a player purchases the newspaper circular or purchases the instant win ticket. However, it is clear that Fisk at least attempts to promote the game by providing a free entry into at least one bingo game. In an analogous art, Koza teaches that it is known in the art to provide free entry into various games of chance, such as bingo, through newspaper inserts, or by free entry forms sent through the mail, or by internet sites that require no purchase to play e.g. Koza teaches that it is known to provide a free entry into a game of chance, wherein the act of providing the method is free (Col. 1:20-28, Col. 2:30-45). Such attempts are giving for providing free game play in jurisdictions that do not possess the attribute of consideration (e.g. jurisdictions that allow games of chances to be played as long as entry is free) (see ID). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made would have motivated to modify Fisk with act of providing for free a method of free entry into a lottery type game, as taught by Koza, to promote game play and furthermore extend game play to jurisdictions that restrict certain lottery-type games such as bingo. Such a modification, promotes the game to a wider audience, while retaining bingo devotees and furthermore increasing player participation and revenue.

Fisk in view of Koza teaches the above, but is somewhat silent to providing or processing a subscription, wherein the subscription provides entry for at least one

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player into at least one of a plurality of game sessions. Fioretti teaches a bingo gaming system wherein players can participate in bingo games remote from the actual location of the bingo game itself e.g. the call of the numbers (Abstract). Fioretti teaches a system for playing bingo over a wide geographic area through player subscription i.e. where advance orders for game card arrays could be made or purchased via online point of sales terminals. The bingo system can utilize electronic bingo, home computer terminals, cable set-top boxes, or the like for game card array purchases e.g. subscribe to a series of bingo games (Col. 6:3-20, 66-68). Furthermore, Fioretti teaches a player subscribing to a series of bingo games via mail which is a clear indication of a single purchase or subscription to a series of games (Col. 15:24-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the bingo system of Fisk in view of Koza with the subscription means of Fioretti to enable a player to purchase a subscription to a series of bingo games as taught by Fioretti to provide a more convenient means of a player to purchase bingo games. Many players do not like making consistent credit card or bank account purchases for games because of security reasons such as credit theft etc. Furthermore, subscriptions guarantee revenue to the game service providers e.g. it guarantees continuous play thereby increasing sales.

Claims 3, 8, & 21: Fisk discloses a special jackpot award wherein a player that must achieve a row of hits in five called numbers on a card (Pg. 39:17-23). This is clearly interpreted as determining a payout based on fixed odds of winning, considering the likely hood or probability of achieving the outcome is significantly high.

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Claim 9: Fisk discloses that various combination of winning pattern can achieve a “bingo” within the game and that achieving bingo can either end the game or modify the game (Pg. 37:10-34). This includes any bingo, which is well known in the art, and basically consists of achieving bingo in any known fashion until a winning bingo is achieved e.g. a bingo game wherein the odds of winning aren’t fixed.

Claims 17-18: Fisk discloses that at the players’ receive bingo game cards that are randomly generated by the card generator/computer within the network (Pg. 12:1-5, Pg. 19:1-8, Pg. 31:1-5). Fisk discloses that alternatively bingo cards cannot be reused in subsequent games, therefore a player has to receive a new card each game (Pg. 34:20-22).

Claims 7 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Koza (US 6,767,284) in further view of Fioretti (US 5,351,970) and in further view of Odom (US 6,581,935).

Claims 7 & 25: Fisk in view of Koza in further view of Fioretti discloses the above with respect to the independent claims, but excludes specifically disclosing determining payouts based on a predetermined payout table, to the at least one player. Fisk discloses that in the event that a player has a winning bingo card the pattern cell content of the card is compared to the drawn winning cell content/numbers stored in memory and if there is a match the player is awarded a payout. Payouts vary from jackpot awards to “leaster” awards, therefore based on the type of win gaming system determines the appropriate payout (see above). Fisk discloses that some of the rules for the game may comprise achieving different combinations of winning patterns on a

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bingo card (Pg. 37:16-25). However, Odom discloses a bingo type game playable over a network, wherein a player can achieve various winning patterns during a bingo game that are respective of different awards based on a payable (Abstract, Col. 4:24-66). It would have been obvious to one of ordinary skill at the time of the invention to have, modified the bingo gaming system of Fisk in view of Koza in further view of Fioretti to incorporate the bingo payable of Odom for purposes of providing various payouts to the player. The more and/or different types of awards available to the player the more incline the player will be willing to play the game. Such a modification would increase player participation because of the increased opportunities to achieve various payouts.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Koza (US 6,767,284) in further view of Fioretti (US 5,351,970) and in further view of Yacenda (US 2001/0003100).

Claim 30: Fisk in view of Koza in further view of Fioretti discloses the above, but lacks explicitly teaching an act of identifying a subscription level for the at least one player. Yacenda teaches a bingo system wherein a player can purchase a bingo subscription and the system identifies and tracks the subscription level of the bingo player (§§ 47-48, 61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the bingo system of Fisk in view of Koza in further view of Fioretti with the subscription tracking means of Yacenda for purposes of maintaining a player subscription. Such a modification supplies the system a means to maintain and track the subscription level of the player e.g. make the correct deductions for a player's account for a subscription, determine when a subscription has ended, etc.

Allowable Subject Matter

Claims 31-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Laneau/
Primary Examiner
Art Unit 3714

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12/19/09